

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO**

**MARCEL CUNNINGHAM,**

**Case No. 1:23-cv-01436**

**Plaintiff,**

**JUDGE PAMELA A. BARKER**

**-vs-**

**Magistrate Judge Thomas M. Parker**

**TRANS UNION, LLC,**

**Defendant.**

**MEMORANDUM OPINION & ORDER**

On June 5, 2023, Plaintiff Marcel Cunningham (“Cunningham”) filed a Small Claims Complaint in Euclid Municipal Court against Defendant Trans Union, LLC (“Trans Union”). (Doc. No. 1-2.) Cunningham alleged that Trans Union defamed him and failed to comply with unspecified consumer laws appearing under Title 15 of the U.S. Code. (*Id.*) On July 25, 2023, Trans Union removed Cunningham’s small claims case to this Court. (Doc. No. 1.) And, on July 31, 2023, Trans Union filed an Answer. (Doc. No. 5.)

On August 9, 2023, the Court referred this case to Magistrate Judge Thomas M. Parker for general pretrial supervision. (Doc. No. 6.) He scheduled a Case Management Conference for September 13, 2023. (Doc. No. 7.) Cunningham failed to attend the Case Management Conference. (Non-Document Minutes of Proceedings dated September 14, 2023.) So, Magistrate Judge Parker ordered Cunningham to show cause by September 28, 2023, why the Court should not dismiss the case for want of prosecution. (Doc. No. 12.)

Cunningham did not respond to Magistrate Judge Parker’s Show Cause Order. Consequently, on October 25, 2023, Magistrate Judge Parker issued a Report and Recommendation that this Court dismiss this case unless, by November 8, 2023, Cunningham filed an objection to the Report and Recommendation that set forth good cause for not complying with the Court’s orders and

demonstrated that he brought himself into compliance with the Court's previous orders. (Doc. No. 13.) Cunningham did not file an objection or otherwise respond to Magistrate Judge Parker's Report and Recommendation.

When a party objects to a Magistrate Judge's Report and Recommendation, the district court reviews the case *de novo*. Federal Rule of Civil Procedure 72(b)(3) reads, in pertinent part:

The district judge must determine *de novo* any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

The Advisory Committee Notes provide that "[w]hen no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." In *Thomas v. Arn*, 474 U.S. 140 (1985), the Supreme Court held that "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings." *Id.* at 150.

This Court, having reviewed the Report and Recommendation and finding no clear error, adopts the Magistrate Judge's Report and Recommendation. Accordingly, the Court hereby dismisses this case without prejudice for lack of prosecution for the reasons in Magistrate Judge Parker's Report and Recommendation.

**IT IS SO ORDERED.**

Date: November 9, 2023

s/Pamela A. Barker  
PAMELA A. BARKER  
U. S. DISTRICT JUDGE